IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.1466 OF 2006

Shri Anil Ramchand Chhabria and anr .. Petitioners. (Orig.Defts)

Vs

Shri Pralhad Parsaram Chhabria & anr Respondents (No.1-Plff)

Mr S.M.Gorwadkar,for the petitioners.

CORAM : D.B.BHOSALE,J.
DATE : 30.08.2006

PC:

1. Heard the learned counsel for the petitioners.

2. In this petition, the petitioners have impugned the order dated 13.9.2005 passed on the application at Exhibit-57, by which the learned Judge has framed only one issue out of the issues proposed by the petitioners in paragraph 5 of the said application. In view of the observations made by the learned Judge in the impugned order dated 13.9.2005, stating that the remaining issues proposed by the petitioners are entirely covered by the issues framed earlier at Exhibit-45 on 13.6.2005, I do not deem it necessary to entertain this petition. The apprehension expressed by Mr Gorwadkar that the petitioners would not be allowed to lead evidence on the issues proposed by them in the application at Exhibit-57, at this stage, is unfounded in view of the aforesaid observations made by the learned Judge in the

impugned order. It is always open for the parties to lead evidence based on the pleadings. If at any subsequent stage, the petitioners are prevented from leading evidence based on the pleadings in the absence of a specific issue, they can renew their application to recast the issues. If such an application is filed by the petitioners in the course of hearing of the suit, same may be considered in the light of the provisions of Order 14, rule 5 of C.P.C. With these observations, the writ petition is disposed of.

(D.B.BHOSALE,J.)